

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

BENNY F. GWINN,

Plaintiff,

v.

CIVIL ACTION NO. 2:05-cv-00551

WEST VIRGINIA PAROLE BOARD,

Defendant.

MEMORANDUM OPINION AND ORDER


This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court: 1) find that the plaintiff's complaint fails to state a claim upon which relief can be granted; 2) dismiss the plaintiff's complaint pursuant to 28 U.S.C. § 1915A(b); and 3) deny the plaintiff's application to proceed *in forma pauperis*.

Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge. The court **FINDS** that the plaintiff's complaint fails to state a claim upon which relief can be granted. Accordingly, the court **DISMISSES** the plaintiff's complaint pursuant to 28 U.S.C. § 1915A(b), and **DENIES** the plaintiff's application to proceed *in forma pauperis* [Docket 1].

The court **DIRECTS** the Clerk to send a certified copy of this Memorandum Opinion and Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: March 8, 2006



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE